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May 1, 2008

By Facsimile Transmission:  
212-805-0426

Honorable Laura Taylor Swain  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York

**MEMO ENDORSED**

Re: *Ognibene v. Schwarz*  
08 CV 1335 (LTS)

Dear Judge Swain:

On behalf of the defendants in the above-referenced action, I am writing to request a status conference to discuss an appropriate scheduling order regarding plaintiffs' pending preliminary injunction motion. As the Court is aware, plaintiffs commenced this action by service of their original complaint on or about February 11, 2008. More than two months later, on or about April 24, 2008, while defendants were in the process of preparing a dispositive motion seeking the dismissal of the case in its entirety, plaintiffs served a motion for a preliminary injunction, including eleven declarations from ten declarants. Plaintiffs have noticed the motion to be returnable on May 23, 2008 – three days after defendants' motion papers were to be filed.

In light of these developments, defendants cannot hold to the prior motion schedule for the motion to dismiss, and request an adjustment of the schedule from the Court. Defendants now propose to defer the larger motion to dismiss for the time being, and to focus, as we are obliged to do, upon the claims asserted in the preliminary injunction motion – essentially, those provisions of the Campaign Finance Act and Rules that pertain to (1) the extension of the pre-existing prohibition on corporate contributions to limited liability corporations, limited liability partnerships, and partnerships; (2) the reduced contribution limits applicable to those

engaged in doing business with the City of New York; and (3) the non-matchability of organizational campaign contributions. Defendants plan to oppose the preliminary injunction motion, and to cross-move to dismiss the amended complaint as to plaintiffs' First and Fourteenth Amendment addressed to those three statutory provisions.

In order to oppose plaintiffs' motion, defendants need to engage in discovery focused upon the assertions made therein. To that end, defendants propose serving, in short order, a set of interrogatories and document requests seeking the identification of witnesses with relevant knowledge of plaintiffs' claims, and the production of documents relevant to those claims. Defendants intend to take depositions of the ten declarants, along with any other witnesses identified by the plaintiffs whose depositions might be necessary to oppose plaintiffs' motion. If plaintiffs intend to rely upon expert testimony, we would need to conduct expert discovery and depositions following the conclusion of factual discovery. Finally, we would request thirty days after the conclusion of all discovery to file our opposition and cross-motion papers.

Thus, defendants submit that plaintiffs' motion requires us to propose the following schedule:

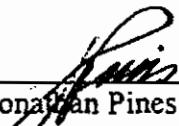
Defendants' discovery requests served:	May 9
Plaintiffs' responses due:	June 9
Depositions:	4 weeks (approximate, depending upon total no. of witnesses and availability)
Defendants' opposition/cross-motion due:	30 days after close of all discovery

If expert discovery is necessary, adjustment of above dates will be required, as expert depositions will have to follow the conclusion of factual discovery.

I apprised plaintiffs' counsel of the specifics of this proposal on Tuesday morning. They indicated that they would provide me with their response this morning. Having heard nothing from them, I cannot convey to the Court plaintiffs' position regarding this request.

Thank you for your consideration of this matter.

Very truly yours,

  
Jonathan Pines

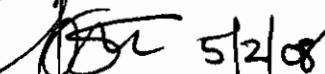
Assistant Corporation Counsel

The parties shall appear before the undersigned for a conference on May 6, 2008, at 3:00pm. New York-based counsel shall appear in person.

Any out-of-town counsel wishing to participate by telephone must call the Courtroom Deputy

(212/805 0417) by 12:00pm noon

on 5/6/08 to make arrangements.

  
5/2/08

LAURYN TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE

Copies (by e-mail) to:

Joe La Rue

Charles Capetanakis

Counsel for Plaintiffs